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CERTIFIED ORIGINAL  
LEGALINK BOSTON

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UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

----- X  
TRANS-SPEC TRUCK SERVICE, INC.,  
d/b/a TRUCK SERVICE,

Plaintiff,

vs.

Civil Action No.  
04-CV-11836-RCL

CATERPILLAR, INC.,

Defendant.  
----- -x

DEPOSITION OF KEVIN G. HOLMES  
Monday, April 11, 2005, 9:00 a.m.  
Tri State Trucking Center, Inc.  
411 Hartford Turnpike  
Shrewsbury, Massachusetts 01545

Reporter: Deborah L. Maren, RPR  
LegalLink Boston  
320 Congress Street, Boston, MA 02210  
(617)542-3500

LegalLink Boston  
(800) 822-3376

EXHIBIT  
tabbles  
Exhibit N

1 A. Al Cardoza has been giving us specifics as  
2 to what he requests us to do with these engines.

3 Q. What have those specifics been? What has  
4 he been telling you to do with the engines?

5 A. Either replace the flywheel housing or  
6 repair the front engine cover leaks.

7 Q. How would you repair the front engine cover  
8 leaks? Has he been giving you specifics to repair it?  
9 Or is there just a set procedure for doing so?

10 A. Actually, there are set procedures that are  
11 obviously there. And obviously we have to follow those.

12 Q. Has he been telling you to patch any of the  
13 engines or flywheel housings or flywheel housing bolts  
14 or any components?

15 A. There was a unit here, yes, that was  
16 patched.

17 Q. Is patching sufficient for these types of  
18 problems that you've been seeing in Trans-Spec's C-12  
19 engines?

20 MR. GRUNERT: Object to the form.

21 A. Unfortunately so, not in the engine that  
22 was here, no.

23 Q. Do you know why Al Cardoza told you to  
24 simply patch the engine?

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1 A. Specifically, no, I don't. Obviously, I'm <sup>81</sup>  
2 sure, from a cost standpoint, yes.

3 Q. Was it obvious that patching wouldn't be  
4 sufficient to make this repair on this engine?

5 A. For the vehicle's longevity, yes.

6 Q. Why?

7 A. Because a piece of the engine block was  
8 broken.

9 Q. How did Al Cardoza tell Tri State to patch  
10 the engine block?

11 A. He said to put the piece back on and epoxy  
12 it.

13 Q. How long did it last? Do you know?

14 A. Unfortunately so, I don't know that now. I  
15 believe that's, you know, a vehicle that has not been  
16 back here so I would not know that.

17 Q. Did you or -- do you know if the person who  
18 was dealing with this particular engine from Tri State,  
19 did that person voice any concern with Al Cardoza  
20 regarding the insufficiency of that patching?

21 A. I believe there were pictures taken and  
22 all, yes.

23 Q. Do you have those pictures?

24 A. Unfortunately so, I don't personally. But

1 I do believe there is a disk, yes. 82

2 Q. Okay. You said that cost consideration was  
3 a factor, you thought, in that decision. Could you  
4 explain what you meant by that?

5 A. Again, an engine bell housing or flywheel  
6 housing repair would be in the vicinity of maybe \$3,000,  
7 \$3500 between parts and labor, as opposed to an engine  
8 replacement which would be in excess of \$20,000.

9 Q. How much would patching cost?

10 A. Again, the patching would encompass --  
11 probably be about that 32 to \$3500.

12 Q. Okay. From what you've seen, is there a  
13 permanent fix for Trans-Spec's types of problems with  
14 the engines?

15 MR. GRUNERT: Object to the form and competence.

16 A. Other than replacement, as I mentioned  
17 earlier, no.

18 Q. Okay. Does Caterpillar ever authorize a  
19 dealer such as Tri State to make a repair pursuant to a  
20 warranty and then subsequently refuse to pay it?

21 A. Yes.

22 Q. Could you tell me about that.

23 A. Actually, we've -- we have had claims that  
24 we have been authorized to perform and we do get charged